

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRY J. MACKEY,

Petitioner,

No. CIV S-01-2299 FCD GGH P

vs.

A.C. NEWLAND, et al.,

Respondent.

ORDER

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On March 12, 2004, this court denied the petition. On January 8, 2007, the Ninth Circuit Court of Appeals reversed this order and remanded for this court to grant a conditional writ of habeas corpus instructing the state to either retry petitioner or release him from custody.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's application for a petition for writ of habeas corpus is granted;

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1 2. The state must, within 60 days, either commence new trial proceedings or
2 release petitioner.

3 DATED: February 8, 2007.

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FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE
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